

105TH CONGRESS  
1ST SESSION

# H. R. 582

To amend title XVIII of the Social Security Act to correct beneficiary overcharges for hospital outpatient department services and to provide for prospective payment for such services and to eliminate the formula-driven overpayments for certain hospital outpatient services.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1997

Mr. STARK (for himself and Mr. COYNE) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to correct beneficiary overcharges for hospital outpatient department services and to provide for prospective payment for such services and to eliminate the formula-driven overpayments for certain hospital outpatient services.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Medicare Hospital  
5 Outpatient Reform Act of 1997".

1 **SEC. 2. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**  
2 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**  
3 **SERVICES.**

4 (a) **AMBULATORY SURGICAL CENTER PROCE-**  
5 **DURES.**—Section 1833(i)(3)(B)(i)(II) of the Social Secu-  
6 rity Act (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

7 (1) by striking “of 80 percent”; and

8 (2) by striking the period at the end and insert-  
9 ing the following: “, less the amount a provider may  
10 charge as described in clause (ii) of section  
11 1866(a)(2)(A).”.

12 (b) **RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-**  
13 **DURES.**—Section 1833(n)(1)(B)(i)(II) of such Act (42  
14 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

15 (1) by striking “of 80 percent”; and

16 (2) by striking the period at the end and insert-  
17 ing the following: “, less the amount a provider may  
18 charge as described in clause (ii) of section  
19 1866(a)(2)(A).”.

20 (c) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply to services furnished during por-  
22 tions of cost reporting periods occurring on or after Janu-  
23 ary 1, 1998.

1 **SEC. 3. PROSPECTIVE PAYMENT FOR HOSPITAL OUT-**  
2 **PATIENT DEPARTMENT SERVICES.**

3 (a) IN GENERAL.—Section 1833 of the Social Secu-  
4 rity Act (42 U.S.C. 1395l) is amended by adding at the  
5 end the following:

6 “(t) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL  
7 OUTPATIENT DEPARTMENT SERVICES.—

8 “(1) IN GENERAL.—Notwithstanding any other  
9 provision of this title, with respect to hospital out-  
10 patient services designated by the Secretary and fur-  
11 nished during years beginning with January 1,  
12 1998, the amount of payment made for the services  
13 determined under this part shall be determined  
14 under a prospective payment system established by  
15 the Secretary in accordance with this subsection.

16 “(2) SYSTEM REQUIREMENTS.—Under the sys-  
17 tem established by the Secretary under this sub-  
18 section, the Secretary shall—

19 “(A) develop a classification system to re-  
20 flect the hospital outpatient services furnished  
21 under this part;

22 “(B) establish groups of procedures and  
23 visits so that procedures and visits within each  
24 group are comparable clinically and with re-  
25 spect to the use of resources;



1           “(C) using data from the most recent year  
2           available, establish relative payment weights for  
3           groups based on median hospital costs and shall  
4           determine the frequency of utilization of each  
5           group;

6           “(D) adjust the proportion, (as estimated  
7           by the Secretary from time to time) of hos-  
8           pitals’ costs which are attributable to wages  
9           and wage-related costs, of the fee schedule  
10          amounts applied under paragraph (3) for area  
11          differences in hospital wage levels by the factor  
12          (established by the Secretary under section  
13          1886(d)(3)(E)) reflecting the relative hospital  
14          wage level in the geographic classification area  
15          of the hospital compared to the national aver-  
16          age hospital wage level;

17          “(E) establish other adjustments as deter-  
18          mined to be necessary to ensure equitable pay-  
19          ments, and establish a reduced payment for the  
20          performance of multiple procedures where the  
21          marginal cost of providing a second procedure  
22          during a single visit may be less than the indi-  
23          vidual cost of both procedures combined; and

1           “(F) identify and implement methodologies  
2           to control for unnecessary increases in the vol-  
3           ume of the services subject to payment under  
4           this section, and report to Congress on such  
5           methodologies before January 1, 1999.

6           “(3) MEDICARE PAYMENT AMOUNT.—Subject  
7           to the deductible under section 1833(b), the amount  
8           of payment made under this part for outpatient de-  
9           partment services classified within a group and pro-  
10          vided in any year shall be equal to 80 percent of the  
11          Medicare OPD fee schedule amount for the group  
12          and the year, as determined under paragraph (5).

13          “(4) COMPUTATION OF CONVERSION FAC-  
14          TORS.—

15               “(A) ESTIMATES OF CERTAIN AMOUNTS.—

16           The Secretary shall estimate the total projected  
17           Medicare payments that would have been made  
18           under this part to hospitals for outpatient de-  
19           partment services in 1998.

20               “(B) CALCULATION OF CONVERSION FAC-

21           TOR.—

22               “(i) FOR 1998.—On the basis of the  
23           weights and frequencies of utilization de-  
24           scribed in paragraph (2)(C), the Secretary

1 shall establish a conversion factor for de-  
2 termining Medicare OPD fee schedule  
3 amounts for each group for 1998 in a  
4 manner so that, taking into account the  
5 products, for all the groups, of 80 percent  
6 of the Medicare OPD fee schedule amounts  
7 (taking into account appropriate adjust-  
8 ments described in paragraphs (2)(D) and  
9 (2)(E)), and the frequency of utilization  
10 for such group, the total projected Medi-  
11 care payments under this part to hospitals  
12 under the system under this subsection for  
13 outpatient department services in 1998  
14 shall equal the total projected Medicare  
15 payments estimated under subparagraph  
16 (A).

17 “(ii) SUBSEQUENT YEARS.—Before  
18 the beginning of each year after 1998, the  
19 Secretary shall determine the conversion  
20 factor for determining Medicare OPD fee  
21 schedule amounts for each group for that  
22 year. The conversion factor shall be equal  
23 to the conversion factor determined under  
24 this subparagraph for the previous year in-  
25 creased by the market basket percentage

1           increase   (as   defined   in   section  
2           1886(b)(3)(B)(iii)) for the fiscal year in  
3           which the year involved begins.

4           “(5) CALCULATION OF MEDICARE OPD FEE  
5   SCHEDULE AMOUNTS.—The Secretary shall compute  
6   a Medicare OPD fee schedule amount for each  
7   group for each year in an amount equal to the prod-  
8   uct of—

9           “(A) the conversion factor computed under  
10          paragraph (4)(B) for the year, and

11          “(B) the relative payment weights (deter-  
12          mined under paragraph (2)(C)) for such group  
13          for such year.

14          “(6) PERIODIC REVIEW AND ADJUSTMENTS TO  
15   GROUP PRICES.—

16          “(A) PERIODIC REVIEW.—The Secretary  
17          may periodically review and revise the groups,  
18          the relative payment weights, and the wage and  
19          other adjustments described in paragraph (2)  
20          and take into account changes in medical prac-  
21          tice, volume, changes in technology, the addi-  
22          tion of new procedures, new cost data, and  
23          other relevant information and factors.

24          “(B) BUDGET NEUTRALITY FOR ADJUST-  
25   MENT.—If the Secretary makes adjustments



1           under subparagraph (A), then such adjustments  
2           for a year may not cause the estimated amount  
3           of expenditures under this part for the year to  
4           increase or decrease from the estimated amount  
5           of expenditures under this part that would have  
6           been made if such adjustments had not been  
7           made.”.

8           (b) COINSURANCE.—Section 1866(a)(2)(A)(ii) of  
9   such Act (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by  
10   adding at the end the following new sentence: “In the case  
11   of items and services for which payment is made under  
12   part B under the prospective payment system established  
13   under section 1833(t), clause (ii) of the first sentence shall  
14   be applied by substituting for 20 percent of the reasonable  
15   charge, the 20 percent of the applicable Medicare OPD  
16   fee schedule amount under section 1833(t)(5)).”.

17          (c) CONFORMING AMENDMENTS.—

18               (1) Section 1833(i)(3) of such Act (42 U.S.C.  
19   13951(i)(3)) is amended by adding at the end the  
20   following:

21               “(C) The previous provisions of this paragraph shall  
22   not apply to items and services for which the amount of  
23   payment is determined under subsection (t).”.



1           (2) Section 1833(n) of such Act (42 U.S.C.  
2       13951(n)) is amended by adding at the end the fol-  
3       lowing:

4       “(4) The previous provisions of this subsection shall  
5       not apply to items and services for which the amount of  
6       payment is determined under subsection (t).”.

7       (d) EFFECTIVE DATE.—The amendments made by  
8       this section shall apply to services provided on or after  
9       January 1, 1998.

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